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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,743	09/05/2003	Martha Kelsey	29621/38774A	9078

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EXAMINER

DOAN, ROBYN KIEU

ART UNIT PAPER NUMBER

3732

DATE MAILED: 03/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SN

Office Action Summary	Application No. 10/656,743	Applicant(s) KELSEY, MARTHA	
	Examiner Robyn Doan	Art Unit 3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/27/04, 06/28/04, 2/19/04</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

The disclosure is objected to because of the following informalities: in the specification, page 3, line 8, "first side 33" is not shown in the drawings, also the disclosure fails to describe how the first and second portion being perforated.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4, 7, 14 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 4, 7, 14 and 17 are indefinite because the trademark name being claimed as a part of the structures and this is indefinite because the material being used in the trademark name can be changed with time.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 19 and 21-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Hill (5228465).

With regard to claim 19, Hill discloses a device and method of straightening the hair (col. 4, lines 31-32) comprising the steps of opening a body (10, col. 4, lines 36-37) of a hair straightening device, the body having a first portion (fig. 7, 18) with an inner surface (14), a first side and a second side, a second portion (16) also with an inner surface (14), a first side and a second side, wherein the first and second portions being pivotally connected at a hinge (20, 22) disposing near the first sides, placing the strands of hair between the first and second portions (col. 4, lines 38-39), closing the body by with a fastener mechanism (38, 40) disposing near the second sides (30, 32). In regard to claims 21-22, Hill further discloses the step of wetting the strands of hair (col. 4, lines 34-36) and traversing the device along and in a direction parallel to the strands of hair (fig. 1).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 5, 8 and 10-12, 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hill '465 in view of Lowery (GB 2167946).

With regard to claims 1, 2, 5, 8 and 10-12, 15, Hill, as discussed above, discloses a device for straightening the hair, the first and second portions as discussed above further having a generally rectangular shape and the hinge being located along the long side of the rectangular portions, the first and second portions being two halves of a single piece (fig. 7). Hill does not disclose a plurality of bristles disposing on the inner surfaces of both first and second portions of the body and the bristles being integral to one of the first and the second portions. Lowery discloses a device for straightening the hair (fig. 1) comprising a body having a first and second portions (4, 5), with inner surfaces, a plurality of bristles (6) being integral and disposing on the inner surfaces of the first and second portions. It would have been obvious to one having an ordinary skill in the art at the time the invention was made to employ the bristles as taught by Lowery into the device of Hill for the purpose of gripping the hair.

Claims 3-4, 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hill in view of Lowery as applied to claims 1 and 11 and further in view of Rajwani (IDS cited reference GB2371744).

With regard to claims 3-4 and 13-14, Hill in view of Lowery disclose a hair straightening device comprising all the claimed limitations in claims 1 and 11 as discussed above except for the bristles being constructed from a part of hook and loop fastener. Rajwani discloses a device for hair treatment (figs. 3-4) comprising a sheet sealed at one end and being provided with hooks (3a) and loop fastener part to fasten the hair. It would have been obvious to one having an ordinary skill in the art at the time the invention was made to employ the bristles in the hooks and loop fastener forms as taught by Rajwani into the hair device of Hill in view of Lowery for the purpose of improving the retaining of hairs.

Claims 6-7 and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hill in view of Lowery as applied to claims 1 and 11 above, and further in view of Leoci (3871388).

With regard to claims 6-7 and 16-17, Hill in view of Lowery disclose a hair straightening device comprising all the claimed limitations in claims 1 and 11 as discussed above except for the faster mechanism being a hook and loop material. Leoci discloses a hair treatment device (fig. 1) comprising a first and second rectangular portions (14), a fastening mechanism including a hook and loop material (16, 170 being disposed on an inner surface of each of the first and second portions. It would have been obvious to one having an ordinary skill in the art at the time the invention was made to employ the hook and loop material as taught by Leoci into the hair device of

Hill in view of Lowery for the purpose of sealing the first and the second portions so that the hair may be retained therein.

Claims 9 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hill in view of Lowery as applied to claims 11 and 1 above, and further in view of Regas (3692032).

With regard to claims 9 and 18, Hill in view of Lowery disclose a hair straightening device comprising all the claimed limitations in claims 1 and 11 as discussed above except for the first and second portion being perforated. Regas discloses a hair straightening device (figs. 1-2, abstract) comprising a first and second portions (80) being perforated (col. 6, lines 25-27). It would have been obvious to one having an ordinary skill in the art at the time the invention was made to employ the perforated formation as taught by Regas into the device of Hill in view of Lowery for the intended use purpose.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Murtha, Ensign and Minato are cited to show the state of the art with respect to a hair treatment device.

The drawings filed 09/05/03 have been approved by the Examiner.

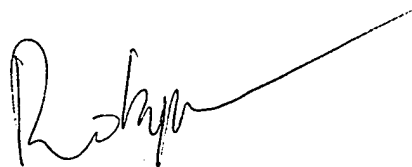
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robyn Doan whose telephone number is (571) 272-

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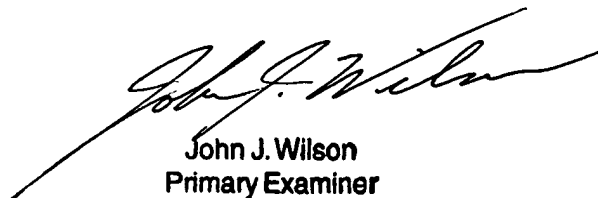
4711. The examiner can normally be reached on Mon-Fri 9:30-7:00; alternate Mondays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (703) 308-2582. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Robyn Doan
Examiner
March 3, 2005



John J. Wilson
Primary Examiner